



POLICY AND ADMINISTRATIVE PROCEDURES

Manual of Policies and Procedures

Title

OFFENDER GRIEVANCE PROCESS

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	ACA:
IC 11-11-1-1	00-01-102 02-04-101 01-04-101 03-02-104 02-01-101 02-03-102	CO: 2-CO-3C-01 ACI: 4-4284 JTS: 1E-02, 3D-09, 5B-02-1, 5H-04

I. PURPOSE:

The purpose of this policy is to provide an administrative process where offenders committed to the Indiana Department of Correction may resolve concerns and complaints relating to their conditions of confinement.

II. POLICY STATEMENT:

The Offender Grievance Process is to provide a mechanism for every offender to express complaints and topics of concern for the efficient and fair resolution of legitimate offender concerns and for facility and Department management to be better informed and better able to carry out the Department's mission and goals. The Offender Grievance Process is not intended to interfere with or supplant existing channels of communication. It is anticipated that offender complaints will be resolved informally by staff attempting to meet and discuss the complaints prior to the offender filing a formal written grievance.

III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented:

- A. **APPEAL:** A request for review of a facility-level response to a grievance by the Department Offender Grievance Manager.
- B. **BUSINESS DAY:** Working days for grievance processing defined as Monday through Friday, excluding any holidays recognized and observed by the State of Indiana.
- C. **DEPARTMENT:** The Indiana Department of Correction.

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- D. DEPARTMENT OFFENDER GRIEVANCE MANAGER: The staff person in the Department's Central Office designated by the Commissioner as overseeing the Offender Grievance Process and who is responsible for ensuring appeals are investigated and responded to in the designated time frame.
- E. EMERGENCY GRIEVANCE: The resolution of a grievance that if subjected to the normal time limits could cause the grievant substantial risk of personal injury or irreparable harm.
- F. EXECUTIVE ASSISTANT: The staff person at a facility who is designated by and reports directly to the Superintendent to oversee the operation of the Offender Grievance Process which includes overseeing the duties of the facility Offender Grievance Specialist(s) at the facility.
- G. FRIVOLOUS / ABUSE / OR MULTIPLE GRIEVANCES: The use of the Offender Grievance Process in a manner other than in good faith, such as the filing of frivolous, repetitive or retaliatory grievances. Repetitive grievances or multiple grievances occur when the same issue has been addressed and where sufficient time for a response has not elapsed or where a response has been provided.
- H. GRIEVANCE: A formal written complaint or concern submitted on State Form 45471 in compliance with this administrative procedure and accepted and logged by the Offender Grievance Specialist. Until the Offender Grievance Specialist accepts and logs the document, it is a form and not a grievance.
- I. INFORMAL COMPLAINT/ RESOLUTION: A resolution to an offender complaint or concern reached by the complaining offender and staff without the submission of a formal grievance. This complaint must be on State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL," and is logged into OGRE with the Formal Grievance, if necessary. The Informal Complaint/Resolution is NOT given a separate log-in number, but is scanned as a secondary or supplemental form denoting that the offender attempted to resolve his/her complaint at the institution level.
- J. OFFENDER GRIEVANCE SPECIALIST: The staff person(s) who are designated by and reports directly to the Executive Assistant who oversees the operation of the Offender Grievance Process at the facility. The Offender Grievance Specialist is responsible for receiving, reviewing, logging, assigning a case number and ensuring an investigation is conducted and a proper response and resolution is made to each grievance.

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Each Facility must designate a Primary Offender Grievance Specialist and a Secondary Offender Grievance Specialist that shall remain within that designated assignment for at least two (2) years, minus extenuating circumstances. If removed for extenuating circumstances, the Offender Grievance Specialist must be immediately replaced with information relayed to Central Office Offender Grievance Manager of the replacement.

- K. **OFFENDER GRIEVANCE SYSTEM (OGRE):** The computer application officially called the Offender Grievance Review and Evaluation System to assist in the reviewing, managing, and tracking of the offender grievance process.
- L. **PRISON RAPE ELIMINATION ACT (PREA):** The federal law establishing a standard of zero tolerance for incidents related to sexual assault and rape of offenders.
- M. **REMEDY:** Any action taken in response to a complaint or concern, or to a grievance.
- N. **REPRISAL:** Any act or threat of action against anyone for the use of or participation in the Offender Grievance Process.

IV. USE OF THE OFFENDER GRIEVANCE PROCESS:

The Department recognizes only one grievance process. Although an offender may use one or more methods to resolve problems, the grievance process described in this policy and administrative procedure is the only administrative remedy officially recognized by the Department for the resolution of offenders' grievable issues. The complete offender grievance process consists of three steps:

- (i) An informal attempt to solve a problem or address a concern, which can be followed by;
- (ii) Submission of a written form outlining the problem or concern and other supporting information, and the response to that submission, which can be followed by;
- (iii) A written appeal of the response to a higher authority and the response to that appeal. The Department does not require an offender who is satisfied with the result at any step to proceed further with the process.

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A. Matters Appropriate to the Offender Grievance Procedure:

Offenders may initiate the grievance process when an incident or issue affects them personally and impacts the conditions of their confinement. Examples of issues about which an offender may initiate the grievance process include, but are not limited to:

1. The substance and requirements of policies, procedures and rules of the Department or facility (including, but not limited to, correspondence, staff treatment, medical or mental health, some visitation, and food service);
2. The way that staff members are interpreting and applying the policies, procedures, or rules of the Department or of the facility.
3. Actions of individual staff, contractors or volunteers; all PREA issues;
4. Acts of reprisal for using the Offender Grievance Process; and,
5. Any other concerns relating to conditions of care or supervision within the Department or its contractors, except as noted in these administrative procedures.

B. Matters Inappropriate to the Offender Grievance Procedure:

Examples of non-grievable issues, but not limited to:

1. Federal, state and local law;
2. Court actions and decisions, including pre-sentence investigation reports, pending charges, and jail time credit;
3. Indiana Parole Board Actions or Decisions;
4. Parole agent recommendations to the Indiana Parole Board;
5. Classification actions or decisions, which include loss of a job, change in security level, facility transfers, and bed moves (a separate classification appeals process is in place for this purpose);
6. Disciplinary actions or decisions (a separate disciplinary appeal process is in place for this purpose);

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7. Contents of grievance or appeal responses from the Executive Assistant or the Department Offender Grievance Manager;
8. Complaints on behalf of other offenders;
9. The denial of a sex offender's visits with minors based upon the results of the Department's case review;
10. Any matter over which the Department has no control, such as the actions of persons outside the Department who are not operating under contract with the Department;
11. Decisions by Superintendents to designate an offender as an abuser of the offender grievance process and, thereby, restrict the offender's access to the offender grievance process;
12. Any visitor's behavior resulting in Gate Closure of that visitor;
13. Personal Property Issues; and,
14. Tort Claims.

When an offender submits a grievance concerning a NON-GRIEVABLE issue, such as listed above, staff shall deny the grievance for that reason, retain copies for file, and complete State Form 45475, "RETURN OF OFFENDER GRIEVANCE," retain copies on file according to record retention guidelines, and send both (the documented grievance and return of offender grievance form) back to the offender.

C. Emergency Grievances:

The Offender Grievance Specialist shall immediately bring emergency grievances to the attention of the Executive Assistant for the Superintendent's review and response within two (2) business days of the offender filing the grievance. The action on any emergency grievance may be appealed by the offender within one (1) business day of receiving the response. The Department Offender Grievance Manager shall issue a final Department decision within five (5) business days of the offender filing the grievance. The initial response and final Department decision shall document the Department's determination whether the offender is in substantial risk of imminent danger and the action taken in response to the emergency grievance. The facility may discipline an offender for filing an emergency grievance in bad faith. The determination that a grievance is

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not an emergency may be appealed through the normal grievance procedures as directed in this policy and administrative procedures.

D. PREA Grievances:

When receiving an emergency grievance alleging an offender is subject to a substantial risk of imminent sexual abuse, the receiving staff member shall immediately forward the grievance, or any portion of the grievance that alleges the substantial risk of imminent sexual abuse, to the Superintendent. The Superintendent shall take immediate corrective action. The Superintendent shall forward the emergency grievance to the Executive Assistant, who shall provide an initial response within two (2) business days of the offender filing the emergency grievance. The Superintendent shall also forward the emergency grievance to the Department's Offender Grievance Manager, who shall issue a final Department decision within five (5) business days to the offender who filed the grievance. The initial response and final Department decision shall document the Department's determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. The facility may discipline an offender for filing a grievance related to alleged sexual abuse only where the facility demonstrates that the offender filed the grievance in bad faith. The determination that a grievance is not an emergency may be appealed through the normal grievance procedures as directed in this policy and administrative procedure.

This subsection presents guidelines for the filing of grievances alleging that an offender is subject to a substantial risk of imminent sexual abuse, and removing the standard time limits on submission for a grievance regarding an allegation of sexual abuse. Standard time limits may apply to any portion of a grievance that does not allege an incident of sexual abuse. The Department shall not require an offender to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. Nothing in this subsection shall restrict the Department's ability to defend against an offender lawsuit on the ground that the applicable statute of limitations has expired.

An offender who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint at any time after the alleged incident. Sexual abuse as defined in Policy 02-01-115, "Sexual Assault Prevention, Investigation, Victim Support, and Reporting," consists of non-consensual sex acts, abusive sexual contact, and staff sexual misconduct. Such a grievance shall not be referred to a staff member who is the subject of the complaint. The Department shall

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issue a final decision on the merits of any portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance. Determination of the ninety (90) day time period shall not include time consumed by the offender in preparing any administrative appeal. The Department may claim an extension of time to respond, of up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision. The Department shall notify the offender in writing of any such extension and provide a date by which a decision shall be made.

At any level of the administrative process, including the final level, if the offender does not receive a response within the time allotted for response, including any proper extension, the offender may consider the absence of a response to be a denial at that level. Third parties, including other offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of offenders. If a third party files such a request on behalf of an offender, the facility may require, as a condition of processing the request, that the alleged victim agree to have the request filed on his/her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the offender declines to have the request processed on his/her behalf, the Department shall document the offender's decision.

V. USE OF OFFENDER GRIEVANCE PROCESS WITHOUT FEAR OF REPRISAL:

Retaliation against an offender for filing an informal complaint or formal grievance is strictly prohibited. The prohibited retaliation includes, but is not limited to, disciplinary action against the offender for filing a grievance.

Any offender who believes that he or she has been the subject of reprisal/retaliation for using the offender grievance process may file a grievance explaining what action or threat of action has been taken against him or her as a direct result of using the offender grievance process. The Executive Assistant shall ensure that grievances related to reprisal/retaliation shall be thoroughly investigated and, if found to be accurate, appropriate action shall be taken against staff or offenders involved in the reprisal/retaliation.

- A. It shall be noted that offenders shall not submit grievances that threaten, or make derogatory or vulgar comments against staff, a facility, other offenders, visitors, or volunteers.

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- B. Disciplinary action may occur if the grievance threatens bodily harm or the intent to harm another individual at the facility or in the community upon release. Vulgarity or derogatory language is not necessary to convey or describe a situation or incident that may have occurred.
- C. A disciplinary action shall not be filed against an offender for providing false information on a grievance form unless staff can show that the offender deliberately provided false information in an attempt to harm, humiliate, or harass another person, impair the operation of the facility, or misuse the Offender Grievance Process.
- D. Only the Superintendent / designee or the Executive Assistant may issue a conduct report offense described in this section. This is not considered retaliation or reprisal when an offender makes threats of bodily harm, such behavior is a violation of offender disciplinary conduct. The offender grievance process is not to be used as a source with the intent to humiliate or harass staff, etc., when the intent is resolve problems, not to create additional ones.
- E. An offender's restriction in the use of the offender grievance process for misuse or abuse of the process shall not be considered a reprisal for use of the offender grievance process and no grievance may be filed regarding this action.

VI. REMEDIES:

If a grievance is decided in favor of an offender, the Executive Assistant / Offender Grievance Specialist shall ensure that the appropriate remedy or resolution to the grievance is provided in a timely manner. The remedy may not directly benefit the offender and may not be the remedy the offender seeks. No grievance shall be rejected because an offender seeks an improper or unavailable remedy, except that a grievance shall be rejected if the offender seeks:

- A. A remedy available through the Classification Division of the Department;
- B. A remedy for an error allegedly occurring during a disciplinary proceeding;
- C. A remedy to a situation or event that is outside the authority of the Department; or,
- D. Staff discipline, job reassignment, and/or training.

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The Department may, at its discretion, provide one or more of the following remedies:

- A. Provide or replace state-issued items that have been lost, stolen, or damaged through the negligence of staff;
- B. Report Tort Claims through the Indiana Attorney General's Office for consideration of providing remedy through the Tort Claims fund in the event a notice of staff negligence is submitted under the Indiana Tort Claims Act;
- C. Change Department or facility procedures or practices;
- D. Correct Department records; or,
- E. Provide other remedies as deemed appropriate by the Superintendent.

VII. COMMUNICATION OF THE OFFENDER GRIEVANCE PROCEDURES:

- A. Intake/Receiving Facilities shall include the offender grievance process in the Offender Orientation:

Upon an offender's entry into the Department and when transferred to receiving facilities during incarceration, each offender shall be advised of the offender grievance process during the offender admission and orientation (A & O). Staff shall ensure that each offender is made aware of the offender grievance process and how he or she may obtain access to a copy of this policy and administrative procedure. Each offender shall be provided with a copy of the Department's Offender Orientation Handbook which includes a section on the offender grievance process.

The offender A & O shall cover the following issues surrounding the offender grievance process:

- 1. A discussion of the intent of the offender grievance process and the types of issues and access to the process;
- 2. A description of the offender grievance process forms and how and where these forms may be obtained at the facility;
- 3. A description of the offender grievance process at the facility, including identification of the Offender Grievance Specialist / Executive Assistant;

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4. A description of the steps taken to ensure confidentiality;
5. Discussion on access to the process vs. abuse or misuse offender grievance process;
6. Where and how offenders may have access to this policy and administrative procedure.

The Executive Assistant shall ensure that the offender grievance process shall be explained to offenders whose primary language is other than English, or has a visual, hearing, or mental impairment. There shall be mechanisms in place to ensure that the offender grievance process is interpreted by all offenders.

B. Offender Complaint-Informal Process Level (State Form 52897):

A supply of State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL," shall be maintained and obtained from offender's assigned Counselor, Case Manager, Unit Team, or the facility Offender Grievance Specialist. The offender shall be provided with State Form 52897 within one (1) business day from the date of the offender's request.

C. Offender Grievance (State Form 45471):

A supply of State Form 45471, "OFFENDER GRIEVANCE," shall be maintained and obtained from offender assigned Counselors, Case Managers, Unit Team member(s), or facility Offender Grievance Specialist. The offender shall be provided with the State Form 45471 within one (1) business day from the date the form is requested.

VIII. INVOLVEMENT OF STAFF IN THE OFFENDER GREIVANCE PROCESS:

A. Participation of Person Involved in the Matter

Any staff person directly involved in the situation giving rise to an offender's complaint or grievance shall not participate in the investigation or resolution of the complaint or grievance other than to provide necessary information during the investigation. For the purpose of these administrative procedures, direct involvement means being the subject of the complaint or grievance, being personally involved in the alleged conduct or incident at issue, or being a witness to the conduct or incident. Direct involvement does not include routine administrative actions, such as being a reviewing authority in a matter arising under other administrative procedures (e.g., reviewing correspondence to determine

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whether action should be taken on it). Staff shall avoid the appearance of a “conflict of interest” when attempting to resolve an offender’s complaint or grievance. If the Superintendent or Executive Assistant is the person directly involved in the situation giving rise to the complaint or grievance, the Superintendent shall appoint a designee (if possible an Assistant Superintendent) to conduct the investigation and provide a resolution to the complaint or grievance. The designee shall serve in the place of the Superintendent and shall indicate the reason why he or she has responded to the grievance rather than the normal responders.

B. Assistance with Preparation of Grievance

In restrictive status housing units or other units where an offender does not have access to other offenders, the complaining offender may request that a staff person in that unit assist in the preparation of a grievance or an appeal. Assistance may include writing or, where available, typing the grievance for an offender who cannot write or has limited understanding of English, whose handwriting is not legible, or who is unable to type the grievance. Staff may assist by explaining the grievance process to the offender. However, the complaining offender must sign the grievance and submit the grievance in accordance with any facility procedures for filing grievances. If a staff person assists the offender in preparing the grievance, that staff person shall have no other role in investigating or responding to the grievance. An offender may assist another offender at the same facility in preparing a grievance or an appeal. Assistance in preparing the grievance or appeal may include an offender writing or typing the document for another offender who either cannot write, has limited understanding of English, whose handwriting is not legible, or who is unable to type it. The complaining offender must sign the grievance or appeal and submit it to staff personally. An offender cannot submit an offender grievance on behalf of another offender.

IX. OFFENDER ABUSE OF GRIEVANCE PROCESS:

Offenders shall not be allowed to abuse or misuse the Offender Grievance Process by attempting to flood the process with excessive numbers of grievances or frivolous grievances. The determination as to whether an offender is attempting to abuse the process shall not be based solely on the quantity of grievances; but shall also include the types of grievances and the subject matter of the grievances. The grievances submitted to satisfy the order of a court shall not be included in documentation alleging abuse of the Offender Grievance Process.

An offender who appears to be abusing the Offender Grievance Process shall not be automatically referred to the Superintendent as an alleged abuser but shall first

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be interviewed by the Executive Assistant to determine the rationale and need of the offender to file the amount and type of grievances currently under consideration. The ramifications of abuse of the process shall be explained to the offender. Offenders shall be informed of what is considered abuse of the Offender Grievance Process. The Executive Assistant shall be the one interviewing the offender and shall document in a recommendation to the Superintendent that the offender has been interviewed and if he/she refuses to comply with the offender grievance process.

The Superintendent or designee shall determine whether the offender is an abuser of the offender grievance process and may place the following restrictions on the offender:

- A. The offender may have up to five (5) informal complaints in the grievance system at one time, not including emergency (life-threatening), or court-remanded grievances. The offender shall be placed on such a restriction for a period of forty-five (45) business days from the date of determination. An offender's ability to seek resolution of complaints through the informal process shall not be restricted. Offenders shall not be permitted to submit more than one (1) grievance arising out of the same or similar incident;
- B. Offenders shall not be permitted to have more than five (5) formal grievances pending at the facility level at any given time;
- C. Profanity, insults, and racial slurs, unless an alleged direct quote of another party shall not be permitted in grievances. Threatening statements may result in disciplinary action;
- D. An offender shall not be allowed to continually submit fraudulent grievances that are used to harass or embarrass staff or offenders, or knowingly provide statements that are untrue or fabricated that abuse the grievance process.

If the Superintendent determines that the offender is an abuse of the grievance process, the offender shall only be permitted to submit no more than one (1) active formal grievance at one time per week, with the exception of emergency (life-threatening) or court-remanded grievances to satisfy an order of the court for a period of forty-five (45) business days from the date of the determination. An offender's ability to seek resolution through the informal complaint process shall not be restricted per week.

The Executive Assistant shall return to the offender any grievances in excess of the approved number of grievances submitted by an offender when determined to

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be an abuser. These grievances shall be returned in reverse order of receipt (i.e., the last one submitted shall be the first one returned). The Executive Assistant shall include a written notice that the offender has exceeded the limit. During the forty-five (45) business day restriction period, the offender may elect to withdraw one (1) or more grievances filed during that restriction period or grievances that are in progress at any level. The offender may then initiate an identical number of new grievances if the offender believes the new issue(s) have greater priority.

A decision to restrict an offender's access to the grievance process shall be automatically forwarded to the Department Offender Grievance Manager to review the decision and ensure compliance with this policy and administrative procedure.

X. INFORMAL RESOLUTION OF COMPLAINT:

It is the intent of the Department to resolve all offender complaints and concerns as quickly and informally as possible. Both staff and offenders are to attempt to resolve problems through open and courteous discussion before turning to the grievance process.

A. Basic Procedure:

Before filing a grievance, an offender is required to attempt to resolve a complaint informally. The offender may do this by discussing the complaint with the staff member responsible for the situation or, if there is no such single person, with the person who is in charge of the area where the situation occurs. If the offender is in fear of that staff person, is threatened by that staff person, or if the staff person is not available, the offender may discuss the matter with a Counselor, Caseworker, Casework Manager, or other Unit Team member. The facility Offender Grievance Specialist may require the offender to talk to several people to attempt an informal resolution before filing a grievance.

If the offender's complaint is with a Department contractor, such as a food services or healthcare worker, the issue should be raised informally with Unit Team or the contractor Supervisor. The facility's Offender Grievance Specialist may designate the proper contact person in such a case.

The offender shall receive State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL," from the following staff at the facility:

1. Facility Offender Grievance Specialist;

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2. Case Manager; or,
3. Unit Team members.

The offender shall receive the Informal Complaint/Resolution form from staff within the same business day, or no later than one (1) business day of the offender's request. The Informal Complaint/Resolution form must be returned to the facility Offender Grievance Specialist within ten (10) business days of receipt.

B. Time Requirements:

The offender shall attempt to contact the Offender Grievance Specialist, Casework Manager, Caseworker, or Unit Team member within five (5) business days from the date of the incident to obtain a State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL." The offender must attempt to resolve the problem or complaint with the staff in question within five (5) business days from the date of receiving the State Form 52897 from the Offender Grievance Specialist, Casework Manager, Caseworker, or Unit Team member. Normally, the offender should discuss the incident with the staff person where the problem originates and provide the staff person with all available information in order to resolve the complaint informally. If this is difficult for the offender to accomplish, the offender should seek the assistance of the Supervisor of the staff person, the assigned Case Manager/Counselor, Unit Team member, or Offender Grievance Specialist to guide and assist in resolving the problem. The offender must not wait until the five (5) business days are over to ask for such assistance, but must seek assistance within the established five (5) business days or the informal complaint will be rejected. The responsibility to follow through with resolving this complaint or asking for assistance within the (5) business days is the offender's.

The completed State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL," shall be evidence from the offender that an attempt was made on the part of the offender to resolve problem through the offender's discussion with the specific staff member who is able to resolve the problem, a Supervisor who is able to resolve the problem, or the assigned Case Manager/Counselor or Unit Team advocating on behalf of the offender to resolve the problem.

If there is no resolution and staff documents their account of the situation with signature and date, and the offender disagrees or is dissatisfied with the staff response, the offender must return the completed form to the facility Offender Grievance Specialist and document with a signature that

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he/she is either satisfied or dissatisfied with the outcome. If the offender is dissatisfied with the outcome, he/she may request to file a formal offender grievance by signing, dating, and noting that he/she wants to proceed with filing a formal grievance.

There should be no instance where the time period is over ten (10) business days in returning State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL," to the facility Offender Grievance Specialist, unless the offender can provide a reasonable explanation for the delay. If the Informal complaint is not resolved by the staff person within ten (10) business days of the day the offender first approached the staff person, the offender shall be permitted to submit a grievance form.

The facility Grievance Specialist can review for an additional five (5) business days, if due to staff availability or the facility was on lockdown, thereby needing additional time to respond. The facility Grievance Specialist must document this as the reason for the delay in the comment section of State Form 45471, "OFFENDER GRIEVANCE," and in the OGRE system. If there is a need for additional time for response, the Offender Grievance Specialist must review the reasons for such a delay prior to forwarding a request to the Executive Assistant for an extension of time.

Staff shall be advised that they cannot impede or hinder the offender's ability to resolve the complaint informally or hinder the offender from submitting a formal grievance regarding issue(s) surrounding their situation.

However, if the offender makes no attempt to resolve the problem at the informal level, and refuses to discuss resolution with anyone, (no documentation of contacts or signatures), but the Informal/Resolution Complaint meets the criteria of a grievable issue, the facility Offender Grievance Specialist may still reject the Informal Resolution Complaint due to the offender's unwillingness to attempt to resolve the problem through the Informal/Complaint Resolution process.

The time to submit a formal State Form 45471, "OFFENDER GRIEVANCE," begins on the earliest of these days and ends five (5) business days later:

1. The day the staff member tells the offender that there will be no informal resolution;

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2. The day that the offender refuses an informal resolution offered by staff; or,
3. The tenth (10th) business day after the offender first seeks an informal resolution from staff.

C. Documentation

State Form 52897, "OFFENDER COMPLAINT-INFORMAL PROCESS LEVEL," is to be used for this process. This document shall become part of the official record of the grievance process, documenting that the offender has attempted to resolve his/her issue or complaint prior to the submission of a formal State Form 45471, "OFFENDER GRIEVANCE." The informal complaint shall be scanned into the OGRE system as a supplemental form in the event the offender is not satisfied with the informal complaint process and wishes to file a formal grievance.

If the offender's complaint is resolved during the Informal Complaint/Resolution period, documentation shall be filed in the offender's facility packet and maintained on file with the Department Offender Grievance Manager's office.

XI. OFFENDER FILING A FORMAL GRIEVANCE:

An offender wanting to file a formal grievance shall submit a completed State Form 45471, "OFFENDER GRIEVANCE," no later than (20) business days from the date of the incident giving rise to the complaint or concern to the Offender Grievance Specialist. The time limit is extended if a form submitted within that timeframe is returned to the offender after screening the State Form 45471, "OFFENDER GRIEVANCE," by the Offender Grievance Specialist. The offender shall have five (5) business days from the date of the return from the Offender Grievance Specialist to complete and return.

An offender may file a State Form 45471, "OFFENDER GRIEVANCE," concerning an issue that he/she has been unable to resolve at the Informal level to the facility Offender Grievance Specialist. The facility Offender Grievance Specialist must submit to the offender State Form 45471, "OFFENDER GRIEVANCE," within one (1) business day of the request from the offender. The completed grievance form must be submitted to the facility Offender Grievance Specialist within five (5) business days of receipt of the grievance form. The facility Offender Grievance Specialist must either return an unacceptable form or provide a receipt for an accepted form. If an offender does not receive either a receipt or a rejected form from the facility Offender Grievance Specialist within seven (7) working days of submitting it, the offender shall

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immediately notify the facility Offender Grievance Specialist of that fact (retaining a copy of the notice) and the facility Offender Grievance Specialist shall investigate the matter and respond to the offender's notification.

The facility shall ensure that a mechanism is in place in each housing unit or Unit Team to ensure that offenders who are illiterate, who do not speak or write English fluently, or who have medical or psychological disabilities have assistance in preparing and submitting a grievance form in accordance with this policy and administrative procedure. This assistance may be from other offenders or from staff if other offenders cannot, or will not, assist.

- A. Each completed State Form 45471, "OFFENDER GRIEVANCE," must meet the following standards:
 1. Each part of the form shall be completed;
 2. It shall be written legibly, in plain and simple English;
 3. It shall avoid the use of legal terminology;
 4. It shall raise the same issue that the offender raised in trying to get the informal resolution;
 5. It shall relate to only one event or issue;
 6. It shall be submitted by an offender on his or her own behalf, although it can be written by another offender or staff member if the offender is unable to do so due to a physical, language, or other problem;
 7. It shall explain how the situation or incident affects the offender;
 8. It shall show how the offender tried for informal resolution of the complaint or concern;
 9. The offender must sign the grievance form unless unable to do so because of a transfer, an inability to write, or physical inability caused by restraint or infirmity, and in any such case a staff member must indicate the reason why the offender did not sign the form;
 10. The grievance form shall be dated; and,

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11. The offender shall suggest some relief or remedy.

B. Screening the Grievance:

The Offender Grievance Specialist shall review the grievance form within two (2) working days of receiving it and shall either accept it and log it, or reject it.

The Offender Grievance Specialist may reject the grievance form and return it to the offender unfiled if any of the conditions are not met. In addition, the form may be returned to the offender for any of the following reasons:

1. It is clear on the face of the grievance form that the form was not submitted within the time limit;
2. One offender submitted it on behalf of another offender or on behalf of a visitor;
3. It is a “class action” grievance;
4. It uses profanity or vulgarity in a manner other than as a direct quote (which may result also in disciplinary action);
5. It concerns a classification matter;
6. It concerns the conduct of disciplinary proceedings (see below);
7. It concerns a matter beyond the power of the Department and its contractors to remedy;
8. It deals with more than one event or issue;
9. The grievance constitutes abuse in that it was not submitted in good faith but is frivolous or retaliatory; or,
10. The matter addressed in the grievance has been raised and addressed before or is being addressed in another grievance submitted by the same offender.

An offender may not grieve the procedure used in disciplinary proceedings or a finding of guilt. However, the offender is not barred from filing a grievance about an event that is merely related to an event that is the subject of disciplinary proceedings. For example, an offender who has

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been found guilty of battery on staff would not necessarily be barred from filing a grievance that the staff member had treated him or his property improperly in the same course of events. An offender who has been found guilty of destroying State property, however, is not permitted to assert in a grievance that a staff member destroyed the property.

The Offender Grievance Specialist has the discretion to consider a grievance that does not conform to the foregoing rules if there is good cause for the violation. An example of good cause is an inability to comply for reasons outside of the offender's control.

If the Offender Grievance Specialist determines from a review of the grievance form that the completed form does not meet the requirements of these administrative procedures and there is no good cause shown, the Offender Grievance Specialist shall return the grievance form to the offender with an explanation as to why the form was returned and how it may be corrected. State Form 45475, RETURN OF GRIEVANCE, shall be used for this purpose. It will be the responsibility of the offender to make the necessary revisions to the grievance form and to return the revised form to the Offender Grievance Specialist within five (5) working days from the date that it is returned to the offender.

C. Response to Formal Grievance:

The Offender Grievance Specialist has fifteen (15) business days from the date that the grievance is received to complete an investigation and provide a response to the offender, unless the time has been extended.

Upon receipt of a completed State Form 45471, "OFFENDER GRIEVANCE," from any offender, the Offender Grievance Specialist shall within (1) business day submit the SF 45471 form to the facility staff/supervisor for response. Within (10) business days of receipt of the offender's formal grievance, the facility staff / supervisor shall:

1. Investigate the formal grievance;
2. Prepare a written response to the offender's formal grievance. The written response shall include:
 - a. A summary of the offender's concerns included in the formal grievance;

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- b. A description of what actions were taken to investigate the formal grievance to include the date and content if a face-to-face meeting with the offender was conducted;
- c. A summary of findings; and,
- d. The decision and its supporting rationale.

The facility staff / supervisor shall return the response to the Offender Grievance Specialist no later than the tenth (10th) business day of receipt of the offender's formal grievance. If there is a delay in returning the response due to the need to further investigate the offender's concerns, such as (to make contact with the offender, discuss concerns with Medical Physician, awaiting information from local hospital etc.,) the facility staff / supervisor must notify the Offender Grievance Specialist with a reason for the delay. The Offender Grievance Specialist must document the reason for the delay and, if requested by the staff / supervisor, an addition of (5) business days can be given to complete the investigation. The Offender Grievance Specialist shall ensure the offender is notified of the delay due to further investigation of the concerns in their grievance.

If a response is not received from facility staff / supervisor within the established time frames of five (5) business days of receipt and if after given an additional (5) business days for delay, the Offender Grievance Specialist shall notify the offender that he/she may proceed to the next level in the grievance process.

Staff failure to respond to offender grievances submitted by the Offender Grievance Specialist shall be forwarded to the Executive Assistant for appropriate follow-up and auditing purposes of the grievance process.

XII. OFFENDER FORMAL GRIEVANCE APPEALS:

Upon receipt of the grievance response from the Offender Grievance Specialist, the offender shall be responsible for reviewing the response and determining whether the response adequately addresses the issues in the grievance. The offender shall be permitted to appeal the response to the Department Offender Grievance Manager if the offender disagrees with the formal response at the institution level. **The right to appeal is absolute and the offender shall not be told otherwise or asked to waive this right.**

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If the offender is dissatisfied with the Formal Grievance level response after receiving notification of the response, he/she may note the dissatisfaction to the response on the Formal Grievance Form and document with the Offender Grievance Specialist that he/she wants to proceed to the next level which would be to appeal to the Department Offender Grievance Manager.

If the offender does not wish to include any additional information in the formal grievance appeal, all information shall be scanned and submitted within one (1) business day to the Department Offender Grievance Manager. If the offender wishes to submit additional information in the formal grievance, he/she has five (5) business days from the date of the notification of the formal grievance response to submit the additional information to the Offender Grievance Specialist. If the additional information is not received within the five (5) business days, the Offender Grievance Specialist shall submit the formal grievance with response to the Department Offender Grievance Manager.

Appeals must address the basic issues of the grievance. The appeal may contain additional facts or information regarding the original issue and may raise concerns regarding the response from the previous level, but it shall not raise new or unrelated issues. The offender must state why the previous response was unacceptable, thereby establishing a rationale for the appeal and the basis for a reinvestigation. The appeal must be legible, signed, and dated by the offender, unless the offender cannot sign the appeal and a staff member has indicated why the offender was not able to sign.

If the offender receives no grievance response within twenty (20) business days of being investigated by the facility Offender Grievance Specialist, the offender may appeal as though the grievance had been denied. If there is a delay in investigating the offender's grievance issues, the Offender Grievance Specialist may seek approval for a time extension with the request submitted to the Executive Assistant, and with a responding email for file noting the approval/disapproval for the extension. The Offender Grievance Specialist shall notify the offender in writing of the number of days of the extension. In this event, the time to appeal begins on the twenty-first (21st) business day after the grievance was submitted or at the end of extension approved by the Executive Assistant. This time frame may be waived by the Department Offender Grievance Manager if it is determined that there are valid reasons to do so.

Staff responses to offender appeals from the Offender Grievance Specialist shall be within five (5) business days of submission. The Offender Grievance Specialist shall indicate the date he / she received the appeal and shall generate a receipt for the appeal. The receipt shall be given to the offender within one (1) business day from the date the appeal is logged. The Offender Grievance

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Specialist is to scan and forward the grievance and all pertinent information to the Department Offender Grievance Manager within five (5) business days of receipt.

XIII. DEPARTMENT OFFENDER GRIEVANCE MANAGER APPEALS:

The Department Offender Grievance Manager shall complete his/her investigation and submit a response to the appeal within fifteen (15) business days from the date of receipt, unless the Department Offender Grievance Manager notifies the offender and the facility housing the offender in writing within that fifteen (15) day period that the appeal will take additional time to complete. The Department Offender Grievance Manager may take one (1) extension of fifteen (15) additional business days to respond to the appeal. After that time, the appeal is deemed denied.

The decision of the Department Offender Grievance Manager shall be final. Once the response is completed, it shall be returned to the Offender Grievance Specialist electronically. It shall be the responsibility of the Executive Assistant to review the response, print a copy of the response, and ensure that the offender receives the response within two (2) business days from the date that the Executive Assistant receives the response from the Department Offender Grievance Manager.

A. Extension of Time:

1. For an offender:

An offender who does not follow the established time limits in this procedure may have his/her grievance or appeal denied for failure to comply to the time frames unless he or she is able to show good cause. If there are extenuating circumstances which caused the offender delay in seeking an Informal Resolution or submitting the documented Formal Grievance form within the time frames, the offender must document and submit the reason for the delay on a separate piece of paper with signature, and include with the necessary appeal form or make a request for the specific form to the Offender Grievance Specialist for review. The Superintendent's designee/Executive Assistant shall approve or deny such offender delay requests.

2. Extensions That Can Be Considered by the Executive Assistant or the Department Offender Grievance Manager:

The Executive Assistant or Department Offender Grievance Manager may extend the deadline once, for fifteen (15) business days in the case of the Executive Assistant and for twenty (20) business days in

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the case of the Department Offender Grievance Manager. This shall be done by notifying the offender of the extension. If there is a need to delay beyond the fifteen (15) business days due to additional information before making a decision on the offender's Informal Complaint/Resolution or formal grievance at the institution level or the Department Offender Grievance Manager, the offender shall be notified of the second delay that may go beyond fifteen (15) business days.

When there has been delay in responding to a request for Informal Resolution, or a Formal Grievance, or an appeal that goes beyond the second twenty (20) business days, the result shall be that the complaint, the grievance, or the appeal is deemed to have been denied and the offender is permitted to proceed to the next step of the grievance process, if any step remains. If no step remains, the offender has exhausted all remedies at the Department level.

B. Emergency extensions:

When the Superintendent declares a facility emergency in accordance with Policy and Administrative Procedure 02-03-102, "Emergency Response Operations," all time limits shall be suspended. During facility lockdowns that last for an extended period of time, the Superintendent may elect to allow offenders to submit grievances; in such cases, the time limits shall apply unless the Superintendent designates in writing an extension for a fixed period. PREA grievances must be handled immediately and with a suspension of time limits. Grievances that concern life threatening situations shall not be subject to a suspension of the time frames.

XIV. TRANSFER OR RELEASE FROM SUPERVISION:

An offender may pursue or originate a formal written grievance at a facility from which he/she has been transferred or released from supervision only under the following conditions:

- A. If an informal or formal grievance was initiated prior to the transfer or release, the offender may exhaust the administrative remedies available through the grievance process at the former facility.
- B. A new complaint against a former facility regarding transfer of property or funds may be initiated within 20 working days from the date of transfer or release. In such cases, the informal step of the Offender Grievance Process shall be waived.

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- C. The offender shall deal directly with the Executive Assistant at the housing facility. In an intrastate transfer, the Executive Assistant at the new facility shall receive the grievance and ensure that it is logged into the OGRE II system. The Executive Assistant shall then forward the grievance to the Executive Assistant of the former facility electronically who shall be responsible for investigating the grievance and preparing a response. The Executive Assistant at the housing facility shall ensure the offender access to the grievance policy and administrative procedures.
- D. If the offender does not agree with the response from the previous facility, the offender may appeal the response. The offender shall follow the procedures for appealing the grievance and shall submit the appeal to the Executive Assistant of the housing facility. The Executive Assistant shall follow the procedures for processing an appeal.
- E. Established time frames shall be observed in the submission of complaints, grievances and appeals. Time frames governing the completion of investigations and responses shall be observed. A grace period of up to ten (10) working days may be allowed at each level for both the offender and the Executive Assistant due to the need to communicate with another facility.

XV. STAFF TRAINING:

Each facility shall ensure that the offender grievance process is included in the orientation given to new staff. This orientation shall include a brief description of the process and its purpose. This orientation shall emphasize the intent of the Department that the offender grievance process shall be handled in a fair and equitable manner and that staff shall attempt to resolve complaints and concerns informally whenever possible and that in all cases complaints and grievances shall be resolved as quickly as possible. This training is to include information on conflict resolution and mediation.

All staff shall be provided annual refresher information on the offender grievance process. Additionally, all Offender Grievance Specialists, Executive Assistants, and other designated staff who are involved in the offender grievance process shall routinely participate in annual training via on-line Computer-Based Training (CBT) which may include updates on the OGRE System, how to address specific issues, proper methods of communication, and dispute resolution.

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XVI. APPLICABILITY:

This policy and administrative procedure is applicable to all adult offenders, staff, and facilities housing adult offenders.

signature on file
Bruce Lemmon
Commissioner

Date